

**RECYCLABLE HAZARDOUS WASTE REGULATIONS**  
**DEPARTMENT REFERENCE NUMBER: R-99-15**  
**OFFICE OF ADMINISTRATIVE LAW Z-NUMBER: Z-02-0423-06**

**FINAL STATEMENT OF REASONS**

As authorized by Government Code section 11346.9(d), the Department of Toxic Substances Control (DTSC) incorporates by reference the Initial Statement of Reasons prepared for this rulemaking.

**UPDATE OF INITIAL STATEMENT OF REASONS**

**DETAILED STATEMENT OF REASONS**

**Section 66266.1(a):** This subdivision is amended to provide DTSC with greater enforcement capability by replacing the 180-day time limit with a 365-day limit. The increased time (for the Department to request a justification) will increase the possibility that a generator who has disposed of a recyclable hazardous waste of being identified. In addition, this change will allow the Department to utilize resources more efficiently by enabling annual queries of the Hazardous Waste Manifest database system.

The last sentence of the existing regulation, "If the request is made of a person other than an individual, the statement shall be issued by the responsible management of that entity" has been eliminated. This subdivision was amended to be specific about all hazardous waste on the proposed List of Recyclable Hazardous Wastes and to replace the person with the term generator for consistency.

**Section 66266.1(b):** This subdivision was amended to improve clarity. The word "reclamation" was replaced with "recycling" to include all types of recycling, not just reclamation.

**Section 66266.1(c):** The phrase "but need not be limited to" in the current regulations, was eliminated for clarity and replaced with the phrase "at a minimum the following information." This change provides the generators with easily understood guidelines regarding the information requested. Throughout the subdivision, the text of the subordinate sections has been amended for clarity and consistency with language in section 66266.1(c).

Two new sections have been added providing guidance to the regulated community when submitting statements justifying having not recycled a hazardous waste by reason(s) other than the economic or technologic recyclability of the waste. The first, clarifies that the generators may comply with the statute by submitting copies of environmental audits or investigations of the recycling facilities. Without this section, the generators may not realize this option exists. The second, additional section informs generators they may submit any other information that they may wish DTSC to consider in its review.

**Section 66266.1(d):** This subdivision has been modified to require the generator to identify all information that may be a trade secret, as defined in Health and Safety Code sections 25173 and 25358.2, and to substantiate that claim. Language was also added to explain that DTSC will notify the generator after it has made a determination about the trade secret claim. These modifications were to improve clarity and to implement current law, as cited above.

**Section 66266.1(e):** This new subdivision has been added to address the comments received. In addition, the section implements Health and Safety Code, section 25175. It requires DTSC to notify the generator, in writing, of its findings within a finite time period.

**Section 66266.1(f):** This new subdivision was added to clarify (in regulation) that if a generator disposes of its recyclable hazardous waste after the thirty-day grace period provided in the notice, the generator is subject to a five (5) fold increase in the disposal fees that apply to the waste. A nonsubstantive change was made after public notice to place the phrase “at least 30 days after the generator receives a notice of the Department’s finding that the hazardous waste is economically and technologically feasible to recycle” into a parenthetical expression for clarity.

**Section 66266.2:** The former regulation, the “List of Recyclable Hazardous Waste Types,” is replaced with the revised regulation, the “List of Recyclable Hazardous Wastes.” The development of the new list is discussed in the Initial Statement of Reasons.

## **LOCAL MANDATE DETERMINATION**

DTSC has determined that adoption of these regulations will create no new local mandates.

## **ALTERNATIVES CONSIDERED**

DTSC has determined that no alternative has been identified that would be more effective in carrying out the purpose for which the regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

## **ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES**

DTSC has made a determination that these regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

## **SUMMARY AND RESPONSE TO COMMENTS**

See Response to Comments document.